

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN PEARL SMITH, II,

Defendant.

Case No. 3:16-cr-00086-SLG-1

**ORDER REGARDING MOTION TO PRODUCE UNREDACTED RECORDS**

Before the Court at Docket 600 is defendant John Pearl Smith, II's *ex parte* Motion to Produce Unredacted Records. The Court previously authorized a Rule 17(c) subpoena to be issued to the Alaska State Troopers (AST) for the following records:

Policies regarding "photo array" procedures in place from June 2016 to present, including any revisions, corrections, or amendments, as well as internal memoranda and correspondence regarding the *Young v. State* decision (374 P.3d 395 (Alaska 2016)) and its effect on eyewitness identifications conducted prior to the issuance of the *Young* decision.<sup>1</sup>

AST appears to have responded to the subpoena by providing Mr. Smith's counsel with eight pages of documents, four of which are almost completely redacted.<sup>2</sup> AST did not provide an explanation for the redactions. The Court finds

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<sup>1</sup> Docket 538 at 3.

<sup>2</sup> Docket 600-2 (*ex parte*).

it noteworthy that the U.S. Department of Justice provides its detailed “Eyewitness Identification Procedures for Conducting Photo Arrays” online and without redaction.<sup>3</sup>

The original Rule 17(c) subpoena was issued *ex parte*; however, the Court’s previous order has since been made public.<sup>4</sup> Thus, although Mr. Smith’s motion is filed *ex parte*, it is appropriate for this order to be public.

In light of the foregoing, IT IS ORDERED that the U.S. Attorney’s Office shall make all reasonable efforts to obtain an unredacted copy of AST’s photo array policies to be submitted to the Court for *in camera* review. The unredacted AST records shall be submitted by the government to the Court for *in camera* review, or a status report shall be filed by the government as to its efforts to obtain unredacted AST’s policies **within one week of the date of this order.**

DATED this 3rd day of December, 2019, at Anchorage, Alaska.

/s/ Sharon L. Gleason  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> Available at <https://www.justice.gov/file/923201/download> (last accessed Dec. 3, 2019).

<sup>4</sup> Docket 538.